alleged only that the enforcement of the rule complained of would so disorganize the schools that taxes would be dissipated without adequate return. Though taxpayers' bills are numerous in Illinois they have heretofore been based on a certain injury to the taxpayer. *Board of Education* v. *Arnold*, 112 Ill. 11; *Martin* v. *Jamison*, 39 Ill. App. 248. See *Fitzgerald* v. *Harms*, 92 Ill. 372, 375. While the Chicago teachers have gained a temporary advantage over a blundering school board, the entrance of a court of equity into the field is unfortunate.

SURETYSHIP — SURETY'S DEFENSES — BANK'S FAILURE TO SET OFF CLAIM AGAINST PRINCIPAL DEBTOR. — An accommodation note was indorsed to the plaintiff bank at which it was made payable. The bank with knowledge of the accommodation permitted the accommodated indorser to withdraw deposits made after the maturity of the note and sufficient to cover it. It now sues the accommodation maker. *Held*, that it cannot recover. *Tatum* v. *Bank*, 69 So. 508 (Ala.).

At common law, the holder of a bill or note who has knowledge of the suretyship of one party for another has a duty of equitable conduct toward the surety, on pain of discharging him. *Laxton* v. *Peat*, 2 Campb. 185; *Ewin* v. *Lancaster*, 6 B. & S. 571; *Valley Nat. Bank* v. *Meyers*, 17 N. B. R. 257. In some states it is a breach of that duty for a bank which holds accommodation paper to permit the accommodated party to withdraw sums on deposit at or after maturity of the instrument. *McDowell* v. *Bank*, 1 Harrington (Del.) 369, 382, 383; *Pursifull* v. *Bank*, 97 Ky. 154, 30 S. W. 203. See 2 MORSE, BANKS AND BANKING, 4 ed., § 563; 9 HARV. L. REV. 146. But, by the weight of authority, the surety is not discharged by a mere failure to retain such deposits, as he would be if the bank released a mortgage or pledge to which he might be subrogated. *Glazier* v. *Douglass*, 32 Conn. 393; *Davenport* v. *Bank*, 126 Ga. 136, 54 S. E. 977; *Citizens' Bank* v. *Booze*, 75 Mo. App. 189. Whether the right is regarded as a lien, as in the principal case, or as a set-off, it is well settled that the surety cannot be subrogated to the right of the bank to retain the deposit. See *Davenport* v. *Bank*, *supra*, 146; *Pursifull* v. *Bank*, *supra*. See SHELDON, SUBROGATION, § 124. But, although no right of subrogation is destroyed, the bank, by failing to exercise its right of set-off, which would have afforded a simpler means of satisfying the debt than would be afforded by a pledge, mortgage, or lien, has prejudiced the surety's interests as much as if it had surrendered a security on which it held a specific lien. *McDowell* v. *Bank*, *supra*; *Pursifull* v. *Bank*, *supra*; *Law* v. *East India Co.*, 4 Ves. 824. Under this view it should make no difference whether the deposits were made before or after the maturity of the note. *McDowell* v. *Bank*, *supra*; *Bank of Taylorville* v. *Hardesty*, 91 S. W. 729 (Ky.). See *Davenport* v. *Bank*, *supra*, 144. *Cf. People's Bank* v. *Legrand*, 103 Pa. St. 309; *Commercial Bank* v. *Heninger*, 105 Pa. St. 496. And it is also immaterial whether the principal debtor is maker or indorser, provided the real relationship between the parties is known to the bank. *Ewin* v. *Lancaster*, *supra*; *Guild* v. *Butler*, 127 Mass. 386. Accordingly, the principal case seems correct in holding that the bank should be compelled to make the set-off against the account of the depositor. The court did not have to decide whether the Negotiable Instruments Law would affect the correctness of this result, because the statute of the sister state where the note was payable was not pleaded.

TAXATION — CONSTITUTIONAL RESTRICTION: UNIFORMITY — MORTGAGE REGISTRY TAX. — A Kansas statute imposed a tax on mortgages when recorded, making those not recorded unenforceable, and exempting those recorded from the general property tax. The former small registry fee was also continued. *Held*, that the tax violates the constitutional requirement of "a

uniform and equal rate of assessment and taxation." *Wheeler* v. *Weightman*, 149 Pac. 977 (Kan.).

The common provision in state constitutions requiring equality of taxation has been construed to require that the method of valuation shall be equal for any one sort of property. *Chicago, etc. R. Co.* v. *State*, 128 Wis. 553, 108 N. W. 557. See 16 HARV. L. REV. 136. But privilege, license, and recording taxes need only be uniform in regard to the particular privilege or license taxed. *State* v. *Lathrop*, 10 La. Ann. 398. See COOLEY, TAXATION, 3 ed., 274–344. Now mortgages are generally held to be personal property and are taxed as such. *People* v. *Worthington*, 21 Ill. 171; *Glidden* v. *Newport*, 74 N. H. 207, 66 Atl. 117. *Contra, People* v. *Hibernia, etc. Society*, 51 Cal. 243. And they are properly taxed, though the land is also taxed to the full value. *Kirtland* v. *Hotchkiss*, 100 U. S. 491; *Lick* v. *Austin*, 43 Cal. 590. On the other hand, mortgages are sometimes exempted altogether as included in the tax on land, or the amount of the mortgagee's interest is deducted from the value assessed to the mortgagor. *Crawford* v. *Linn County*, 11 Ore. 484, 5 Pac. 738; *Savings & Loan Society* v. *Multnomah County*, 169 U. S. 421. But so long as the mortgage is taxed as property; it must be assessed on the same scale as other property. Often, however, mortgage taxes are not taxes on property but privilege taxes. *Saville* v. *Virginia Ry. & Power Co.*, 114 Va. 444, 76 S. E. 954; *State* v. *Alabama Fuel & Iron Co.*, 66 So. 169 (Ala.). But when, as in the principal case, a recording fee is retained and the mortgages taxed are exempted from the general property tax, it seems that the tax is one on property rather than the privilege of recording.

TRUSTS — RIGHTS AND LIABILITIES OF THIRD PARTIES — CONSTRUCTIVE NOTICE BY DEPOSIT AS "TRUSTEE." — The plaintiff gave Morris money to invest for her. He deposited it in the name of "Morris, Trustee" with the defendant brokers, through whom he speculated on margins with it. In an action against the brokers for assisting, with notice, in diverting the plaintiff's property from the purpose for which Morris held it, the plaintiff was nonsuited on the ground that the addition of "Trustee" to the depositor's name did not put the defendant on notice of the plaintiff's equity. *Held*, that the non-suit was correct. *Titcomb* v. *Richter*, 89 Conn. 230, 93 Atl. 526.

Whenever a fiduciary relationship exists, a third person who knowingly aids the trustee in a breach of trust will be liable to the beneficiary. *Duckett* v. *Mechanics' Bank*, 86 Md. 400. Notice of the prior equity may be constructive, depending on the existence of facts sufficient to put a prudent man on inquiry. *Shaw* v. *Spencer*, 100 Mass. 382; *Leake* v. *Watson*, 58 Conn. 332. See *Jones* v. *Smith*, 1 Hare 43, 55. See 1 PERRY, TRUSTS, 6 ed., § 223. It is usually held that the word "trustee" is not mere *descriptio personae*, but gives constructive notice of prior equities. *Jeffray* v. *Towar*, 63 N. J. Eq. 530; *Isham* v. *Post*, 71 Hun (N. Y.) 184; *National Bank* v. *Insurance Co.*, 104 U. S. 54; *Third National Bank* v. *Lange*, 51 Md. 138. See *Ex parte Kingston*, L. R. 6 Ch. App. 632. See 15 HARV. L. REV. 160. A scattered practice among business men of making special personal deposits in their names as trustees should not destroy the *primâ facie* notice that the word gives, especially when judicial recognition of this somewhat limited custom would assist trustees to misuse trust funds and would give official sanction to a common means of avoiding attachments. See *Anderson* v. *Kissam*, 35 Fed. 699. Accordingly, the principal case is opposed to both reason and authority. It will be interesting to see whether or not the Connecticut courts will carry their rule to its logical conclusion and allow a "trustee" account to be set off against a personal account. See *Bundy* v. *Monticello*, 84 Ind. 119; *National Bank* v. *Insurance Co., supra; Union Stock Yards Bank* v. *Gillespie*, 137 U. S. 411.